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fore, since the action in Kansas was not barred — for the debtor was not in the jurisdiction — the case is correct. Moreover, it is supported by the weight of authority. *McCann v. Randall*, 147 Mass. 81.

LIMITATION OF ACTIONS — NEW PROMISE AND PART PAYMENT — DELIVERY OF CHECK PAYABLE IN FUTURE. — More than six years prior to the bringing of suit the defendant delivered to the plaintiff a check in part payment of an old obligation. By agreement between the parties the check was not presented and paid until a day less than six years before the action was commenced. *Held*, that the plaintiff's claim is barred by the Statute of Limitations. *Marreco v. Richardson*, 24 T. L. R. 624 (Eng., Ct. App., May 15, 1908).

A voluntary part payment revives an obligation barred by the Statute of Limitations, on the reasoning that the transaction involves a recognition of the debt and a promise to discharge it. *Cleave v. Jones*, 6 Exch. 573. The court here holds that the promise must be implied as of the date of delivery of the check, following a decision that a bill of exchange drawn for future payment is evidence of a promise made at the date of drawing only. *Gowan v. Forster*, 3 B. & Ad. 507. *Cf. Turney v. Dodwell*, 3 E. & B. 136; *Smith v. Ryan*, 39 N. Y. Super. Ct. 489. It seems clear that if a new promise is anywhere to be found, it must be implied from some affirmative act of the debtor. Such an act is the transfer of the check; its payment, on the other hand, is an act of the bank. To imply that the promise involved in the delivery continues and is therefore repeated at the moment of payment, would be to draw an implication from another implication, and that without any equitable basis. In refusing to adopt such a fiction the court seems eminently sound.

MUNICIPAL CORPORATIONS — LIABILITY FOR TORTS — ORDINANCE RATIFYING UNAUTHORIZED ACT OF MAYOR. — Under its charter a city could change street grades only by ordinance. The defendant, who was mayor of the city, in pursuance of a resolution of the council, changed a street grade near the alley upon which the plaintiff's property abutted, rendering it inaccessible to vehicles. An ordinance authorizing the change was passed some time after. *Held*, that the defendant is liable for damage done previous to the passing of the ordinance. *Faust v. Pope*, 111 S. W. 878 (Mo.).

The plaintiff had a right to have the street kept open for the benefit of his property. *Longworth v. Sevedic*, 165 Mo. 221. Unless justified by the subsequent ordinance, the change in grade without proper authorization was a trespass for which the mayor is liable as an individual. *Reed v. Peck*, 163 Mo. 333. A municipal corporation has certain powers conferred upon it, which must be performed in the manner prescribed. *Cross v. Morristown*, 18 N. J. Eq. 305. Since grading could be authorized only by ordinance, any grading not so done was *ultra vires* and incapable of ratification; for otherwise the express power granted by charter would be disregarded. *Page v. Belwin*, 88 Va. 985. A recent decision which permits ratification may be distinguished on the ground that in it the city council was empowered to grade without the authorization of an ordinance. *Wolfe v. Pearson*, 114 N. C. 621. Even then the decision might be assailed on the ground that ratification should not be permitted when to do so would deprive a third party of a vested right of action. *Bird v. Brown*, 4 Exch. 786. The principal decision, then, seems clearly correct.

QUASI-CONTRACTS — MONEY PAID UNDER DURESS OR COMPELSION OF LAW — PAYMENT TO PUBLIC SERVICE CORPORATION. — The plaintiff with full knowledge of the facts, and without fraud on the defendant's part, voluntarily paid to the defendant telephone company an excessive charge. The plaintiff sued for the overpayment. *Held*, that the mere fact that the defendant is a public service corporation does not constitute such compulsion as to allow a recovery. *Illinois Glass Co. v. Chicago Telephone Co.*, 85 N. E. 300 (Ill.). See NOTES, p. 52.

REPLEVIN — STATUTORY REDELIVERY BOND — ACCIDENTAL DESTRUCTION OF PROPERTY BEFORE VERDICT. — The defendant, in an action of re-